



**City of Cathedral City is
Requesting Proposals to Provide**

**PROFESSIONAL LANDSCAPE ARCHITECT AND ENGINEERING SERVICES
CATHEDRAL CITY COMMONS HERITAGE PARK OUTDOOR AMPHITHEATER**

The City of Cathedral City is requests proposals from qualified professional landscape architect and engineering consultants to prepare final Concept Design Plans, Engineering Plans, Specifications and Estimates (PS&E) and Contract Bid Documents for the proposed Commons Heritage Park Outdoor Amphitheater.

The Proposals are due by **Thursday, May 4, 2017 by 2:00 pm.**

PROJECT OVERVIEW

Cathedral City has been actively revitalizing its downtown district and commons area. Among the many projects that have been accomplished thus far are the new civic center complex and town square. This area includes city government offices, the police department, a cinema complex, a soon to open repertory theatre, restaurants, a parking structure, and recreational amenities such as the Fountain of Life, and the Cathedral City Commons festival lawn, which provides grass areas for outdoor enjoyment and festival events.

To further enhance the downtown, the City has dedicated vacant land next to the Civic Center for the Commons Heritage Park Outdoor Amphitheater.

In a continuing effort to encourage public use of this civic space, the city applied for and received a \$2.8 million California State Parks Land and Water Conservation Fund (LWCF) Grant to create a new and interactive outdoor amphitheater space for cultural, entertainment and recreation events and activities. This grant must cover the cost to design and construct the theater and amenities, as well as all City costs for project and grant administration. There are no additional funds.

Currently, the Heritage Park subject site is comprised of a vacant lot at the northeast corner of Cathedral Canyon Drive and Avenida Lalo Guerrero within the civic center complex. The total size of the lots is 2.51 acres. A boundary map is included within the RFP as Attachment 2.

WORK DESCRIPTION

The City is seeking the services of a landscape/architectural/engineering consultant with theater design experience to design an outdoor theater as a multi-purpose facility providing for a covered stage and venue for concerts, stage productions, cultural and civic events.

The City's goal is to complete the design of all features listed below, as well as any the consultant deems necessary to provide for the items listed in the below scope of work. It is anticipated that the project scope may exceed the amount of funds available at this stage of project development.

Therefore, the selected consultant must be mindful of the City's budget constraints and provide full design for the project along with alternatives for long-term project elements that could enhance the theater area in the future.

The consultant should be skilled and able to prioritize the facilities development plan in a logical and cost-effective order to create a complete Outdoor Amphitheater project per the State Grant requirement, in addition to a phased approach for a complete development plan at build-out, based upon future additional funding.

The initial project scope for the grant was derived with input from local stakeholders, artists, performing arts groups, civic groups and City Staff. There is a broad expectation of uses and attributes to be assigned to this project and site.

The selected design team will conduct meetings with community and City stakeholders, including local artists and performing arts organizations, as well as other potential users of the facility during the term of the contract.

SCOPE OF WORK

The City is looking for a highly experienced Design Team to use their talents to guide and interpret the site design. The City wants the Design Team to address how people will relate to the site when in use for events and outside of events. The Design Team should address what is special about this place so that Cathedral City Commons Heritage Park Outdoor Amphitheater becomes a landmark for the City and region.

The Design Team selected must be able to create a place that becomes distinctive and memorable, and must be able to provide a design with consideration as to how people will access and utilize the space.

The Design Team must be able to create a facility that matches the desired programming types, variety of performances and mix of proposed events for the outdoor amphitheater.

The Design Team must create a space that can be used for other active and recreational activities such as the children's play area when shows and events are not held at the venue.

It is important the Design Team include appropriate professional disciplines, including but not limited to landscape architecture, architecture, engineering, theater design, theater management, community outreach, sound, lighting and ADA.

1. The design must analyze and address the following:

- Creative Design Theme for Outdoor Amphitheater and Site
- Community Outreach/Creative Place-making and Local Artist Input Charrettes
- Consider Site Users and Types of Performances Expected in Project Design
- Children's Play Area—Type, Location, Access
- Passive Recreation Elements
- Sustainable Landscaping and Trees
- Walking Trails/Pathways
- Evaluate and recommend permanently installed features, equipment etc. vs. set up for rental/temporary use
- Site Slope Considerations for Placement of Amphitheater and Park Elements
- Sunlight, Noise, Glare, Street Proximity, Parking Structure Proximity to Amphitheater
- Access and Pathway to Parking
- Site Circulation/Access for Pedestrians, Bicyclists, Transit, Neighborhood Electric Vehicle (NEV), and Cars
- Creative ways to draw Pedestrians, Bicyclists, NEV's and Transit Users to Site
- Site Circulation related to Civic Center, Cathedral City Commons Festival Lawn Area
- Traffic Flow Analysis
- Pedestrian Flow Analysis
- Access Points and Parking for Loading/Unloading
- ADA Access in and to the Amphitheater area
- ADA Drop Off Area(s)
- Number of Parking Spaces Required for Seating and Space Capacity

- Benches/Seat Walls
 - Signage—at Project Site and Directional Signage to Site
 - Main Entry/Marquee
 - Type of Stage (Main Stage and Side Stage Areas)
 - Stage Entrances
 - Type of Stage Cover and Backdrop
 - Type of Seating (Berms, Built-in Seating, Provide Chairs, Audience Brings Blankets/Lawn Chairs, etc.)
 - Shade for Seating
 - Seating Access and People Crossover Areas
 - Dressing/Set up Areas (Performers Access to Site)
 - Storage (Type, On-site or Off-Site)
 - Concession Area/Box Office
 - Dining Area Opportunities
 - Public Restrooms
 - Lighting, Video, and Sound for Amphitheater (Permanently installed or Stored and used as needed)
 - Lighting, Video, and Sound Electrical Controls and Location
 - Safety Lighting in Project Area
 - Perimeter Fencing for Security that provides a Sense of Place and does not detract from experiencing Site
 - Crowd Management Fencing and Railing
 - Security—Type (Alarm, Cameras, etc.) and Site Access
 - Safety (Fire, Police, Emergency Conditions)
 - Skateboard and Bicycling Safety/Protection Barriers
 - Durability of Project Elements/Equipment
 - Weather Consideration for Design and Project Elements/Equipment
 - Any Appurtenant Items/Facilities Needed
 - Annual Maintenance Costs
2. The Design Team must provide for full design and complete plans, specifications and cost estimates (PS&E) for an outdoor amphitheater, as well as a children's play area, landscaping, fencing, lighting, signage, public restroom, concession area, site amenities, and walking pathways for the Heritage Park Project.
 3. All of the elements listed in Item 1 above must be part of the Design Plan. This list is not inclusive—meaning the City wants the Design Team to provide additional items and creative ideas for this project, and not rely on the items listed in this RFP.

4. The Design Team must provide project development phasing so that the project infrastructure and elements are bid as a base bid plus alternates where costs are discernable for each major project component.
5. The Design Team will lead community interaction and creative place-making design charrettes, which will include stakeholders, local artists, performing arts groups, and city staff so that consideration of those that will utilize the facility and attend events is accomplished.
6. The selected consultant Design Team will make every effort to provide for all anticipated uses as described in the scope of work. If the Design Team determines that certain uses may not physically fit within the amphitheater site or are more appropriate at an alternate location on the civic center site, then it is the consultant's responsibility to point these issues out early in the conceptual design phase.
7. Consider, evaluate and recommend amphitheater elements, items, features, and equipment that should be installed permanently at the facility/project site vs. accommodation for rented, or stored and set up on a project-by-project basis.
8. The Design Team must address security issues with input from the City and Police Department Staff.
9. Long-term maintenance costs and sustainability of the project must be addressed in the final design documents provided by the Design Team.

ADDITIONAL SCOPE OF WORK INFORMATION

1. Project Site Evaluation

- a. Evaluate site and situation of the proposed amphitheater project as well as the civic center complex. The goal is to plan and design for how the amphitheater relates to its existing and planned environment.
- b. Examine existing infrastructure and utilities locations for suitability or upgrade to accommodate the intended uses.
- c. Consider native soils and geotechnical capability for the hardscape, landscape and structural features to be developed.
- d. Examine contiguous structures and features within and around the site for physical compatibility, noise and sound attenuation issues, nuisance noise such as traffic and interference from other coterminous events.
- e. Consider solar angles, shading, evapotranspiration factors and other characteristics unique to the micro-environment of the site.
- f. Consult with City Staff regarding known and perceived physical issues, community preferences and desires, development code and building code requirements, community-noise equivalent measures or limitations, and other natural/built environment issues or concerns.
- g. Analyze and consider in project design the pedestrian, bicycle, transit, neighborhood electric vehicle (NEV), access to the project site.
- h. Analyze and consider in project design traffic and pedestrian flow and access at the project site.

2. Outdoor Amphitheater Evaluation

- a.** Evaluate the site for optimal location of the stage and supportive infrastructure. Provide recommendation and design for main stage and need for side stages, as well as stage access.
- b.** Evaluate and consider slope direction of site for designing project elements.
- c.** Evaluate sun direction in relationship to audience viewpoints.
- d.** Evaluate how people will move to and within site.
- e.** Evaluate the type of performances anticipated for the site and determine appropriate design to accommodate the various events/performances.
- f.** In providing input on project elements that should be permanent vs. temporary in nature, consider those that will require storage or rental, and work with city staff to provide plan and location for storage as part of final project design.
- g.** Consider where set delivery, dressing area and potential “green room” area, sound and electronics, talent parking, staging storage will be located, e.g., if tents are proposed, provide recommendation on type, location, and storage.
- h.** Evaluate noise from adjacent parking structure and from nearby streets (East Palm Canyon, Cathedral Canyon, Avenida Lalo Guerrero, etc.)
- i.** Include the following (but limited to): solar angles, heat gain and retention, load-in and load-out of sound equipment, staging, sets, and lighting, permanent vs. transient equipment, accessibility for stage production equipment and talent.
- j.** Estimate the cost/value of various scenarios in its potential use.
- k.** Evaluate and recommend the physical dimensions, height, sight distance issues, sound projection, etc.
- l.** Evaluate and consider at least two alternatives to staging design and location including the positives and drawbacks of each design concept.
- m.** Evaluate the type of seating best suited for site, and provide examples of choices that fit the site well. Consider access to seating and crossover areas for people to access the seating before and during shows and events.
- n.** Consider amphitheater seating area size and layout and if the seating area or other areas have multi-use potential.
- o.** Evaluate various paving surfaces including, native soils/decomposed granite, pavers, concrete, etc.
- p.** Evaluate permanent and static seating solutions, including festival style open areas, fixed seating or a combination of options. Assure ADA compliance in all options.

- q. Consider materials maintenance and lifespan for permanent seating options.
- r. Determine the feasibility of multiuse of the amphitheater for open play, sports, games, or other uses.
- s. Evaluate shading alternatives for seating area utilizing both physical shading and plant materials.
- t. Consider flow of people from parking structure to Amphitheater site.
- u. Provide creative signage design onsite, as well as plan for those accessing the site by car, transit, NEV, walking or bicycle.

3. Amphitheater Lighting, Sound, and Electrical

- a. Provide design consideration for security and pathway lighting.
- b. Evaluate production lighting alternatives including stage lighting, remote spots, electrical, and service panels.
- c. Evaluate and provide recommendations and design for type of light fixtures (e.g. LED vs. Incandescent) with consideration for initial investment, maintenance replacement cost, and energy savings for both stage area and project site.
- d. Evaluate and provide recommendations and design for intelligent/smart lighting where possible.
- e. Evaluate and provide recommendations and design for solar lighting where possible.
- f. Evaluate and provide recommendations for sound system, including optimal control area location, speaker location, video equipment and screens location, and the placement of other appurtenant equipment.
- g. Consider protection from the elements, rust, damage, etc. in the recommendation and placement of lighting, sound, video, and electrical features.
- h. Provide cost/energy savings analysis for all components.
- i. Concessions, restrooms, and appurtenances.
- j. Analyze various configurations for restroom facilities to serve the needs of both the amphitheater and the grass festival area. Consider multipurpose structures if appropriate.
- k. Assure ADA compliant and vandal resistant facilities.
- l. Evaluate security and crowd management fencing options

4. Children's Play Area

- a. Evaluate various locations suitable for a secure child play area (tot lot).
- b. Consider various equipment and play surface options.

- c. Consider locations for drinking fountains, pet watering, park benches, trash receptacles, and other appropriate features.
- d. Assure ADA compliant equipment, materials and surfaces.

5. Project Area Landscaping

- a. Evaluate and provide recommendations for a variety of landscaping and tree scales to accentuate various areas of the site.
- b. Recommend appropriate drought-tolerant, sustainable species and varieties for the micro-climate of the site. Ensure that tree species are non-invasive desert compatible with at least a 40-year lifespan.
- c. Provide landscape plans with calculations and fees from Desert Water Agency (DWA), which may also require consultation with the Desert Water Agency (DWA).

BIDDING PHASE

The Design Team shall provide assistance in preparing the necessary documents for the project for bid. Technical support during the bidding, preparation of Addenda and Requests for Information (RFI's) and award process shall also be required.

LIABILITY AND INSURANCE REQUIREMENTS

Prior to the Design Professional Services Agreement (PSA) being issued, the Design Team will provide proof that all liability and insurance required, by the Designer and/or Subcontractor(s), as outlined in the Liability and Insurance Requirements listed in the Design Professional Services Agreement (DPSA) as Attachment 4 are in place and approved by City of Cathedral City.

PROPOSAL FORMAT

Proposals are to be submitted in envelopes, clearly marked with the Design Team's name, address and phone number. Only one (1) proposal per Design Team will be considered.

Proposal packages are to be submitted to City on **Thursday, May 4, 2017 by 2:00 P.M. Pacific Standard Time (PST)**. Proposals received after the stated deadline shall not be accepted. Proposal packages are to be delivered to:

John A. Corella, P.E.
Re: Commons Heritage Park Outdoor Amphitheater
City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234

QUESTION AND ANSWERS (Q &A) REGARDING THIS RFP

Questions must be submitted in writing by 5:00 pm, Monday, April 17, 2017, and sent to the City as follows:

Send RFP Questions to:	John A. Corella, PE, City Engineer
Address:	City of Cathedral City 68-700 Avenida Lalo Guerrero Cathedral City, CA 92234
Send RFP Questions to All Emails Listed:	vllopez@cathedralcity.gov ; martha@mvrconsulting.com ; and jcorella@cathedralcity.gov
Send RFP Questions by:	5:00 pm, Monday, April 17, 2017

PROPOSAL

The City reserves the right to waive informalities and to reject all proposals at its sole discretion. Bidders are encouraged to keep their proposals brief and relevant to the specific work required. Proposals shall include the following items:

1. Work Proposal (Envelope 1) - Submit five (5) copies

A. Cover Letter

The name, address and phone number of the consultant's contact person for the remainder of the selection process.

Any qualifying statements or comments regarding the consultant's proposal, the information provided in the RFP or the proposed agreement.

Identification of sub-consultants and their responsibilities.

B. Statement of Qualifications

Consultant's experience with similar work, including names and current phone numbers of references for listed projects.

C. Project Understanding and Approach

A description of your project understanding, and how you will approach the project.

D. Scope of Work Program

Provide a description of the tasks, sub-tasks, and deliverables.

E. Project Schedule

A comprehensive Gantt/Critical Path Method (CPM) (e.g. Microsoft Project) Schedule shall be submitted.

F. Project Site Visit

Consultant must visit project site and list date of site visit in Proposal in this format:

"Site Visit Conducted by Name (s), Consultant Firm (s), Date, ____ Representative Initials"

G. Addendums

If there are Addendums to this Proposal, Consultant must list Addendums by Number and Initial Receipt in Proposal in this format:

"Addendum No. 1, Date, ____ Representative Initials"

2. Cost Proposal (Separate Envelope 2) – Submit one (1) Copy.

- A.** The consultant shall submit a detailed cost proposal for all anticipating services and materials for completing the project. A cost-break down for each project task and sub-task shall be defined.

3. Selection Process and Schedule

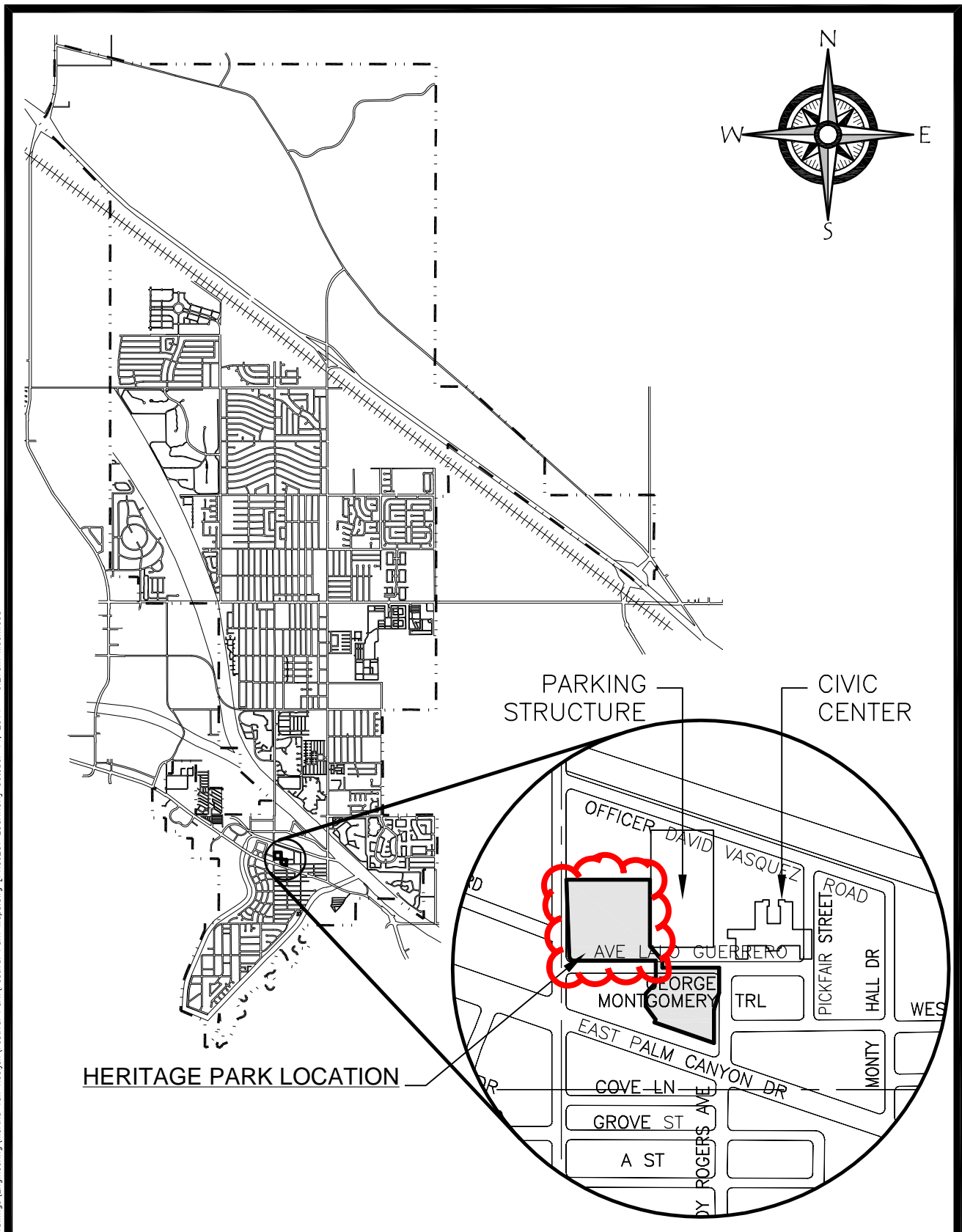
- A.** Work Proposals will be reviewed by a Consultant Selection Committee. A consultant may be selected for possible contract negotiations based upon the materials submitted, or the Consultant Selection Committee may choose to interview two or more closely ranked firms but will not expect or schedule time for elaborate presentations.
- B.** Cost proposals will be opened only after the ranking process is complete.
- C.** The City may open contract negotiations with the top ranked firm. The successful consultant will be expected to enter into the City of Cathedral City Standard Design Professional Services Agreement (DPSA). The City's DPSA is included as Attachment 4.
- D.** Selection Process and Estimated Project Schedule:

Selection Process and Estimated Project Schedule	
RFP Distribution	Monday, April 3, 2017
Questions Due to Cathedral City by:	5:00 pm, Monday, April 17, 2017
Proposals Due by:	2:00 pm, Thursday, May 4, 2017
Review of Proposals:	May 4, 2017 to May 18, 2017
Potential Interviews:	Weeks of May 22 nd and May 29 th
Anticipated Decision and Consultant Selection:	Wednesday, June 14, 2017
Anticipated Commencement Date of Work:	Monday, June 19, 2017
Anticipated Completion of Work (Estimated 6 Months):	Monday, December 18, 2017

ATTACHMENTS:

1. Vicinity Map
2. Aerial Location Map
3. Photos of Project Site
4. Design Professional Services Agreement (DPSA)

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Cathedral City
City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, Ca. 92234
Ph. (760) 770-0340

HERITAGE PARK CITY OF CATHEDRAL CITY PROJECT LOCATION MAP

Scale: N.T.S.

Date: OCTOBER 2014

Sheet: 1 of 1 Sheets

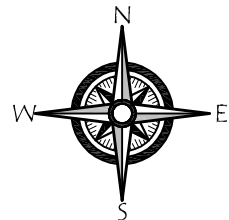
Drawn By: KSL
Checked By: MVR



KEY



HERITAGE PARK PROJECT SITE



City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, Ca. 92234
Ph. (760) 770-0340

HERITAGE PARK CITY OF CATHEDRAL CITY AERIAL PHOTOGRAPH

Scale: N.T.S.

Date: OCTOBER 2014

Sheet: 1 of 1 Sheets

Drawn By: KSL
Checked By: MVR



CITY OF CATHEDRAL CITY
COMMONS HERITAGE PARK OUTDOOR AMPHITHEATER
PHOTOS OF THE PROJECT SITE



Heritage Park Outdoor Amphitheater Site

**Corner of Avenida Lalo Guerrero and Cathedral Canyon Drive
City of Cathedral City**



Heritage Park Outdoor Amphitheater Site

Looking Northwest towards Cathedral Canyon Drive



Cathedral City

CITY OF CATHEDRAL CITY
COMMONS HERITAGE PARK OUTDOOR AMPHITHEATER
PHOTOS OF THE PROJECT SITE



Heritage Park Outdoor Amphitheater Project Site
Looking Northwest to Cathedral Canyon Drive



Heritage Park Outdoor Amphitheater Site
Looking South towards Avenida Lalo Guerrero



Cathedral City Civic Center Parking Structure is
adjacent to the Outdoor Amphitheater Site



Cathedral City

CITY OF CATHEDRAL CITY
COMMONS HERITAGE PARK OUTDOOR AMPHITHEATER
PHOTOS OF THE PROJECT SITE



Heritage Park Outdoor Amphitheater Site
Looking North with Cathedral City Civic Center Parking Structure to the East



Heritage Park Outdoor Amphitheater Site
Looking East at Parking and Cathedral City Civic Center



Heritage Park Outdoor Amphitheater Site
Looking South to Avenida Lalo Guerrero

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BETWEEN
THE CITY OF CATHEDRAL CITY, CALIFORNIA
AND**

This Agreement for Design Professional Services ("Agreement") is entered into as of _____, 2017 ("Effective Date") by and between the City of Cathedral City, a municipal corporation ("City") and _____, a _____ ("Design Professional"). City and Design Professional are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by request for proposals, the performance of the [architectural / landscape architectural / engineering / environmental / land surveying] services defined and described particularly in Section 2 of this Agreement.

B. Design Professional, following submission of a proposal for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Design Professional was selected by the City on the basis of Design Professional's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required.

D. Pursuant to the City of Cathedral City's Municipal Code, City has authority to enter into this Design Professional Services Agreement and the City Manager has authority to execute this Agreement.

E. The Parties desire to formalize the selection of Design Professional for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Subject to the provisions of Section 19 "Termination of Agreement" of this Agreement, the Term of this Agreement is for [___ years/months] commencing on the Effective Date.

SECTION 2. SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.

(a) Scope of Services. Design Professional agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.

(b) Schedule of Performance. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Design Professional shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Design Professional to continue performing the Services.

SECTION 3. ADDITIONAL SERVICES.

Design Professional shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 25 "Administration and Implementation" or Section 27 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Design Professional the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed _____ dollars (\$_____), unless additional compensation is approved in writing in accordance with Section 25 "Administration and Implementation" or Section 27 "Amendment" of this Agreement.

(b) Each month Design Professional shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Design Professional contracts. Sub-Design Professional charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. If the compensation set forth in subsection (a) and Exhibit "B" include payment of labor on an hourly basis (as opposed to labor and materials being paid as a lump sum), the labor category in each invoice shall include detailed descriptions of task performed and the amount of time incurred for or allocated to that task. City shall independently review each invoice submitted by the Design Professional to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City,

the original invoice shall be returned by City to Design Professional for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by Design Professional which are disputed by City, City will use its best efforts to cause Design Professional to be paid within forty-five (45) days of receipt of Design Professional's correct and undisputed invoice.

(d) Payment to Design Professional for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Design Professional.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Design Professional's work under this Agreement, either during performance or when completed. City shall reject or finally accept Design Professional's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Design Professional's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Design Professional's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 15 "Indemnification" and Section 16 "Insurance."

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Design Professional in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Design Professional. Upon completion, expiration or termination of this Agreement, Design Professional shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Design Professional in the course of providing the Services pursuant to this Agreement, Design Professional's guarantees and warranties in Section 9 "Standard of Performance; Familiarity With Work" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. DESIGN PROFESSIONAL'S BOOKS AND RECORDS.

(a) Design Professional shall maintain any and all documents and records demonstrating or relating to Design Professional's performance of the Services. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Design Professional pursuant to this Agreement. Any and all such documents or records shall be maintained for three (3) years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Design Professional's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Design Professional's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8. INDEPENDENT CONTRACTOR.

(a) Design Professional is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Design Professional shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the Services under this Agreement on behalf of Design Professional shall at all times be under Design Professional's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Design Professional or any of Design Professional's officers, employees, or agents except as set forth in this Agreement. Design Professional shall not at any time or in any manner represent that Design Professional or any of Design Professional's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Design Professional, nor any of Design Professional's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Design Professional expressly waives any claim Design Professional may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE; FAMILIARITY WITH WORK.

(a) Design Professional represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Design Professional shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Design Professional shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Design Professional under this Agreement, and shall use such skill, prudence, and diligence as other members of Design Professional's profession commonly possess and exercise. In addition to the general standards of performance set forth this section, additional specific standards of performance and performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Design Professionals work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

(b) Design Professional warrants that (1) it has thoroughly investigated and considered the work to be performed, (2) it has investigated the issues, regarding the scope of services to be provided, (3) it has carefully considered how the work should be performed, and (4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Design Professional shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Design Professional shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Design Professional to comply with this section.

SECTION 11. PREVAILING WAGE LAWS.

It is the understanding of City and Design Professional that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers

done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Design Professional shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. CONFLICTS OF INTEREST.

(a) Design Professional covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Design Professional's performance of the Services. Design Professional further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Design Professional agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City may determine that Design Professional must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests. If such a determination is made, Design Professional shall file the subject Form 700 with the City Clerk's Office pursuant to the written instructions provided by the Office of the City Clerk within ten (10) days of the request.

(c) City understands and acknowledges that Design Professional is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Design Professional is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(d) City understands and acknowledges that Design Professional will, perform non-related services for other governmental agencies and private parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 14. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Design Professional in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Design Professional. Design Professional shall not release or disclose any such information or work product to

persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Design Professional, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Design Professional gives City notice of such court order or subpoena.

(c) If Design Professional, or any officer, employee, agent or subcontractor of Design Professional, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Design Professional for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Design Professional's conduct.

(d) Design Professional shall promptly notify City should Design Professional, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Design Professional or be present at any deposition, hearing or similar proceeding. Design Professional agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Design Professional. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 15. INDEMNIFICATION.

(a) Indemnification by Design Professional. As provided under Civil Code Section 2782.8, Design Professional shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all claims, actions and proceedings (whether at law or equity, administrative or judicial), demands, orders, judgments, losses, liabilities, damages, costs and expenses, including attorney's fees and costs, (collectively "Claims") to the extent same arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Design Professional, its officers, agents, employees or sub-consultants (or any entity or individual that Design Professional shall bear the legal liability thereof) in the performance of professional services under this Agreement, with the understanding that in the event Claims are found by the trier of fact to have been caused by the joint or concurrent negligence of the City and its contractors and Design Professionals, and Design Professional, damages and expenses from both indemnity and duty to defend obligations shall be borne by each party in proportion to its negligence.

(b) Indemnification from Subcontractors. Design Professional agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every sub-consultant, subcontractor or any other person or entity involved by, for, with or on behalf of Design Professional in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Design Professional fails to obtain such indemnity obligations from others as required here, Design Professional agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Design Professional and shall survive the termination of this Agreement or this section.

(c) City's Negligence. The provisions of this section do not apply to Claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

SECTION 16. INSURANCE.

Design Professional agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Design Professional agrees to provide City with copies of required policies upon request.

SECTION 17. ASSIGNMENT.

The expertise and experience of Design Professional are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Design Professional under this Agreement. In recognition of that interest, Design Professional shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Design Professional's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 19 "Termination of Agreement." City acknowledges, however, that Design Professional, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 18. CONTINUITY OF PERSONNEL.

Design Professional shall make every reasonable effort to maintain the stability and continuity of Design Professional's staff and subcontractors, if any, assigned to perform the Services. Design Professional shall notify City of any changes in Design

Professional's staff and subcontractors, if any, assigned to perform the Services prior to and during any such performance.

SECTION 19. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Design Professional. In the event such notice is given, Design Professional shall cease immediately all work in progress.

(b) Design Professional may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Design Professional or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Design Professional, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Design Professional or City, all property belonging exclusively to City which is in Design Professional's possession shall be returned to City. Design Professional shall furnish to City a final invoice for work performed and expenses incurred by Design Professional, prepared as set forth in Section 4 "Compensation and Method of Payment" of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 "Compensation and Method of Payment" of this Agreement.

SECTION 20. DEFAULT.

In the event that Design Professional is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Design Professional for any work performed after the date of default. Instead, the City may give notice to Design Professional of the default and the reasons for the default. The notice shall include the timeframe in which Design Professional may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Design Professional is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Design Professional does not cure the default, the City may take necessary steps to terminate this Agreement under Section 19 "Termination of Agreement." Any failure on the part of the City to give notice of the Design Professional's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 21. EXCUSABLE DELAYS.

Design Professional shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Design Professional. Such causes include, but are not limited to,

acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 22. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Design Professional in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

SECTION 23. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Cathedral City
Attn: City Manager
68-700 Avenida Lalo Guerrero
Cathedral City, CA 92234

To Design Professional: _____

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 24. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Design Professional represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Design Professional to the performance of its obligations hereunder.

SECTION 25. ADMINISTRATION AND IMPLEMENTATION.

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 27 "Amendment" and the City Manager's contracting authority under the Cathedral City Municipal Code.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

SECTION 27. AMENDMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Design Professional and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Cathedral City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Design Professional shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 31. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Design Professional and City prior to the execution of this Agreement. No statements, representations or other agreements,

whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 33. CONFLICTING TERMS.

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first-above written.

CITY OF CATHEDRAL CITY

[DESIGN PROFESSIONAL NAME]

Charles P. McClendon
City Manager

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

Gary F. Howell
City Clerk

APPROVED AS TO FORM

Eric S. Vail
City Attorney

NOTE: DESIGN PROFESSIONAL'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER

**RULES OR REGULATIONS APPLICABLE TO DESIGN PROFESSIONAL'S
BUSINESS ENTITY.**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On _____, 2016
before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

CAPACIT(IES) CLAIMED BY SIGNER(S)

Signer's Name: _____

- .. Individual
- .. Corporate Officer

Title(s)

- .. Partner(s) .. Limited
- General
- .. Attorney-In-Fact
- .. Trustee(s)
- .. Guardian/Conservator
- .. Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number Of Pages

Date Of Document

Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who

signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)

On _____, 2016
before me, _____,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared _____,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

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- .. Individual
- .. Corporate Officer

Title(s)
.. Partner(s) .. Limited
.. .. General
.. Attorney-In-Fact
.. Trustee(s)
.. Guardian/Conservator
.. Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Number Of Pages

Date Of Document

Signer(s) Other Than Named Above

EXHIBIT "A"
SCOPE OF SERVICES

I. Design Professional will perform the following Services:

- A.
- B.
- C.
- D.

II. As part of the Services, Design Professional will prepare and deliver the following tangible work products to the City:

- A.
- B.
- C.
- D.

III. During performance of the Services, Design Professional will keep the City appraised of the status of performance by delivering the following status reports:

- A.
- B.
- C.
- D.

IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:

- A.
- B.
- C.

D.

V. Design Professional will utilize the following personnel to accomplish the Services:

A.

B.

C.

D.

VI. Design Professional will utilize the following subcontractors to accomplish the Services:

A.

B.

C.

D.

EXHIBIT "B"
COMPENSATION

I. Design Professional shall use the following rates of pay in the performance of the Services:

- | | | |
|----|----------------|------------------------|
| A. | ____[job]_____ | ____[hourly rate]_____ |
| B. | ____[job]_____ | ____[hourly rate]_____ |
| C. | ____[job]_____ | ____[hourly rate]_____ |
| D. | ____[job]_____ | ____[hourly rate]_____ |
| E. | ____[job]_____ | ____[hourly rate]_____ |

II. Design Professional may utilize subcontractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed \$_____ per hour without written authorization from the City Manager or his designee.

EXHIBIT "C"

INSURANCE

A. Insurance Coverages. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Service Provider shall procure and maintain the following scope and limits of insurance:

Only the following “marked” requirements are applicable:

X **Commercial General Liability (CGL):** Insurance written on an occurrence basis to protect Service Provider and City against liability or claims of liability which may arise out of this Agreement in the amount of one million dollars (\$1,000,000) per occurrence and subject to an annual aggregate of two million dollars (\$2,000,000). Coverage shall be at least as broad as Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. additional insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

X **Vehicle Liability Insurance:** Vehicle liability insurance in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person, and subject to the same minimum for each person, in an amount not less than one million dollars (\$1,000,000) for each accident, and property damage insurance in an amount of not less than one million dollars (\$1,000,000). A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits. Coverage shall be at least as broad as Insurance Services Office form number CA 0001 covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the approval of the City.

X **Workers' Compensation Insurance:** Workers' Compensation insurance that includes a minimum of one million dollars (\$1,000,000) of employers' liability coverage. Service Provider shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives. In the event a claim under the provisions of the California Workers' Compensation Act is filed against City by a bona fide employee of Service Provider participating under this Agreement, Service Provider is to defend and indemnify the City from such claim.

X **Professional Liability Insurance:** Professional liability insurance appropriate to the Service Provider's profession in an amount not less than one million dollars

\$1,000,000 per occurrence. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider's services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Coverages.

a. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.

b. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

2. Commercial General Liability and Automobile Liability Coverages.

a. City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

b. Service Provider's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider's insurance.

c. Service Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

d. Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

e. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

3. Workers' Compensation Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.

C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Service Provider shall furnish certificates and endorsements from each sub-contractor identical to those Service Provider provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.